

Control No. (Note 1)

**JUSTIFICATION REVIEW DOCUMENT
FOR OTHER THAN FULL AND OPEN COMPETITION**

Program/Equipment: (Note 2)

Authority: 10 U.S.C. 2304(c)() (Note 3) Amount: \$ (Note_4)

Include DSN numbers for the following:

Prepared by:	Typed Name:	Date:
	Title:	DSN:

PCO:	Typed Name: (Note 5)	Date:
		DSN:

Technical	Typed Name: (Note 6)	Date:
	Title:	DSN:

Requirements:	Typed Name: (Note 6)	Date:
	Title:	DSN:

Management:	Typed Name: (Note 6)	Date:
	Title:	DSN:

Signatures are required below:

I have reviewed this J&A and find the justification adequate to support other than full and open competition.

Local	Signature: (Note 7)	Date:
SADBUS		

Typed Name:	DSN:
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Local	Signature: (Note 7)	Date:
Competition		

Advocate	Typed Name:	DSN:
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Local	Signature: (Note 7)	Date:
Legal Advisor		

Typed Name:	DSN:
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Program	Signature: (Note 8)	Date:
Manager		

Typed Name:	DSN:
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ENCLOSURE 1
Control No.

TRADOC Staff Judge Advocate:	Signature:	Date:
	Typed Name:	DSN:
TRADOC Principal Assistant Responsible for Contracting	Signature:	Date:
	Typed Name:	DSN:
TRADOC Special Competition Advocate	Signature:	Date:
	Typed Name:	DSN:
TRADOC Head of Contracting Activity	Signature: (Note 9)	Date:
	Typed Name: DSN:	

NOTES: (Do not type these notes on the J&A)

- 1. A control number must be in the upper right hand corner of each J&A page. Suggest using the fiscal year and sequential numbers; i.e., 97-1, 97-2, etc. It is also acceptable to use the requisition, solicitation, contract, or any other relevant number.**
- 2. A short title for the requirement is all that is necessary.**
- 3. Use only the statutory cite, filling in the " ()" with the appropriate CICA exception. Use only one cite, not multiple cites. The same cite should be included in paragraph 4 and the approval paragraph of the J&A.**
- 4. Use the total estimated value covered by the J&A, including all optional quantities/time periods. The amount must be the same amount shown in paragraph 3 of the J&A.**
- 5. The PCO should be the same one who signs paragraphs 14 and 15 of the J&A. If a contracting officer subsequently signs the contract other than the one who signed the J&A, that contracting officer should countersign paragraphs 14 and 15 of the J&A. The purpose of the countersignature is to ensure that the contracting officer signing the contract agrees with the basis for the noncompetitive action.**
- 6. The names of the technical, requirements, and management persons should be the same ones who sign the J&A in paragraphs 11, 12, and 13. If the same person happens to perform both the technical and requirements functions within the requiring activity, it is acceptable to combine these blocks ("Technical/Requirements").**
- 7. Signatures must be obtained prior to forwarding the J&A for approval.**
- 8. No one should sign as the Program Manager unless officially designated as such by the Senior Acquisition Executive of the Army (or other agency if**

not an U.S. Army activity). If there is no officially designated PM, this block is not required; however, you may include it and insert "N/A".

9. If the total estimated value of the requirement does not exceed \$10M, this block is not required; however, you may include it and insert "N/A".

10. General:

a. The format of the signature blocks differs slightly from those in AFARS; however, placing the "Typed Name" below the "Signature" puts the signature block in a more traditional format. Double space each signature block, with a triple space between them.

b. The second page of the Justification Review Document is page "2" of the J&A; the first page of the body of the J&A is page "3"; etc. The page numbers (beginning with page 2) should be centered at the bottom of the page.

c. Signature blocks for HQ TRADOC personnel should be omitted on J&As not exceeding \$500,000 which are approved by the contracting officer.

d. Enclosure 5 is a copy of the Justification Review Document that you may use and just "fill in the blanks" for J&As not exceeding \$10,000,000. If the J&A exceeds that amount (and therefore must be approved by the TRADOC Chief of Staff or higher), all type styles in the J&A must match.

(1) Please note that the "Program Manager" block has been omitted on Enclosure 5; if your particular acquisition has a PM, room has been left at the top of the second page to insert an appropriate signature block.

(2) Before you make a copy of the blank form, be sure to block out "Enclosure 5" from the bottom of the page.

Control No.

JUSTIFICATION AND APPROVAL

FOR OTHER THAN FULL AND OPEN COMPETITION

1. CONTRACTING AGENCY: Specify the contracting agency responsible for this action.

For instance: "DOC, Fort XXX". There is no need to include a mailing address.

2. DESCRIPTION OF ACTION: Describe the nature of the contractual action for which approval is requested (i.e., new contract, modification). Include type of contract (i.e., FFP, CPAF, etc.); type and year of funds to be used (R&D, OPA, OMA); and estimated share and ceiling arrangements, when applicable.

a. For instance: "A new firm-fixed price contract citing FYxx OMA funds" OR: "A modification to cost plus fixed fee contract number DABTxx-92-C-0001, citing FYxx OMA and FYxx OPA funds".

b. If the contract has option years, say something like: "... citing FYxx OMA funds for the base year, and FYxx thru FYxx OMA funds for each subsequent option year."

c. If there are circumstances where more than one type of funds are cited, use paragraph 3, below, to describe the type and amount to be used for each part of the requirement.

3. DESCRIPTION OF SUPPLIES/SERVICES : Describe the supplies and/or services to be acquired. Include quantities and/or the performance period, as well as the estimated total value (including options if any)."

a. Briefly describe the supplies and/or services -- it is neither desired nor required for detailed specifications or equipment lists to be included. Explain the requirement, as much as possible, in layman's terms so it can be understood by a non technically oriented reviewer who is not familiar with the requiring activity or the project. Do not "camouflage" the true meaning or intent of the action with technical terminology or "buzzwords". If the general description of the type of supplies and services is not plainly understandable, then chances of repeated questioning or action disapproval are significantly increased.

b. If the action described is a modification to an existing contract, be sure to distinguish clearly between the work covered by the basic contract and the additional work to be obtained by the proposed modification.

c. Identify the requiring activity.

d. Option quantities and/or performance periods:

(1) If option quantities and/or performance periods are included in the contract, the value of each option must be shown separately, and included in the total estimated value of the J&A. It is also necessary to state whether options will be evaluated. (Note: If options are not priced and evaluated at time of contract award, a separate J&A must be approved

before any option is exercised.)

(2) If FAR clauses 52.237-3 (Continuity of Services) and/or 52.217-8 (Option to Extend Services) will be included in your noncompetitive contract, be sure to mention each and its associated potential time period and dollar value. (These two clauses should be considered for inclusion in competitive contracts to preclude the necessity for later noncompetitive actions if the follow-on is delayed or if a phase-in/phase-out period is required.)

(3) Option quantities and/or performance periods are not allowed in J&As citing Exception 2 (Urgency). The philosophy (based on GAO decisions) behind this is that an "Urgent" requirement should only be for the absolute minimum quantity/period.

(a) If the total required quantity or time period exceeds that which can be justified as "urgent," it will be necessary to contract for the remainder of the requirement using procedures for full and open competition. If there is only one responsible source for the remaining item(s)/service(s), you must execute an additional J&A under the appropriate exception and advertise as appropriate.

(b) The only exception to this is when an interim contract (or extension to an existing contract) is required due to receipt of a protest prior to or upon award of a follow-on service contract and it is necessary to ensure continuity of services until the protest is resolved. In this case, the J&A may be for a base period of months (minimum time you expect resolution to take) plus a maximum of 3 one-month options. The J&A must specifically state that each option will be exercised only if resolution of the protest does not occur during the previous period. See paragraph 5e(3)(k), below for specific information that must be included in these cases.

e. The amount shown in paragraph 3 of the J&A must be the same amount shown on the Justification Review Document. If the J&A is under Exception 2 (Urgency) and is submitted "after the fact", use the actual contract amount rather than the original estimate.

4. AUTHORITY CITED: Identify the statutory authority, FAR citation and FAR title permitting other than full and open competition.

For instance: "10 U.S.C. 2304(c)(1), as implemented by FAR 6.302-1, Only One Responsible Source". If the FAR contains sub paragraphs describing different circumstances which may justify use of the authority you have cited, identify the appropriate subparagraphs, e.g., FAR 6.302-1(a)(2)(i) for unsolicited proposals.

5. REASON FOR AUTHORITY CITED: Describe how this action requires the use of authority cited. If applicable, identify the proposed or potential contractor(s) and include a discussion of the proposed contractor's unique qualifications for fulfilling the contract requirements. If the authority is urgent, include the required delivery schedule and leadtimes involved.

a. This is the most important paragraph in the J&A. You must show why

the proposed acquisition **MUST** be accomplished through other than full and open competition, and why the authority in paragraph 4 applies. You must provide a well-reasoned, detailed discussion of the issue that will make it crystal clear to someone who has never heard of your organization or your requirement why full and open competition cannot be used for this procurement.

b. For clarity, suggest you divide paragraph 5 into several subparagraphs rather than putting several unrelated thoughts together. You can find guidance for proper paragraph structure and numbering in AR 25-50, Preparing and Managing Correspondence (as supplemented by TRADOC Memo 25-50, Correspondence Procedures Guide).

c. If the proposed contract is based upon submission of an unsolicited proposal, be sure to show that it meets the criteria for a legitimate unsolicited proposal. A statement similar to the following should also be included: "ABC Company has independently originated and developed an innovative and unique approach to do _____. The approach is unique and innovative because _____. As a result of a thorough evaluation of the proposal, it has been determined that the effort proposed may be of significant benefit to the _____ system at _____ (activity). The proposed effort does not resemble the subject of any pending competitive procurement. The unsolicited proposal was approved by _____ on _____. " (Be as specific and nontechnical as possible. The fact that you cannot describe unique and innovative aspects of the proposal without revealing proprietary or even classified information is NOT justification for not including it.)

d. Many items and services have assigned or mandatory government sources or managing agencies.

(1) If the supply being purchased has an official item manager, state that it does and include the name of the responsible agency/activity. It is also necessary to state that the item manager has granted local purchase authority and when/how the approval was granted.

(2) If you are buying an unusual item or service that is not normally TRADOC-managed (example: rental of commercial construction equipment), you must determine whether there is a managing agency. If there is, you must contact that agency and include information in the J&A describing the results of your contact along with any applicable local purchase authority granted.

e. A J&A must include a full discussion of the following, as appropriate:

(1) Background:

(a) Discuss the events/history/circumstances which have led to the current situation that requires use of procedures for other than full and open competition.

(b) If "urgency" is the basis for the J&A, include a chronological explanation of events that caused the exigent situation. At the very least, include discussion and dates for: when requirement became known by the requiring activity; the required performance/delivery date; events that happened before the contracting office was notified of the requirement; when

the contracting office was advised of the requirement; when the formal procurement request was received by the contracting office; when vendors were contacted; when proposals were due; and when award was made. Be sure to explain any actual or apparent time lags between events.

(c) If the date the requirement first became known indicates that normal contracting methods could have satisfied the required delivery date, an explanation of reasons for delay is required. If normal contracting methods could not have satisfied the required delivery date, describe the circumstances which caused this emergency and how they will be prevented in the future.

(2) Alternatives: Discuss alternatives that were available to the government, reasons (technical, cost, etc.) why each was unacceptable except for the alternative selected, and the impact if other alternatives had been selected. Among the possible alternatives might be to (a) suspend operations, (b) use in-house personnel/expertise, (c) replace rather than upgrade an existing system (include costs already invested, training costs, and replacement costs if requested item is not received), etc. If there are other similar products, describe the technical aspects of each and the decision-making process used to determine the similar product(s) to be unacceptable.

(3) Justification:

(a) What are the verified minimum requirements of the item/service? Include a discussion of the unique requirements of the item/service that necessitate a noncompetitive action. Describe how the required delivery/performance date impacted the decision to restrict competition.

(b) Identify the proposed sole source contractor (if applicable) and discuss the unique capabilities, experience, expertise, etc. that the contractor has that makes the firm the only one capable of performing the required work.

(c) If competition would have been feasible had more time been available, discuss other factors that had an impact on the decision to solicit only one source to satisfy the requirement (i.e., cost/time to conduct a competitive procurement; time available versus time required; phase-in/phase-out time; complexity of requirement; etc.).

(d) Whenever you indicate the required action was "directed or mandated" by some higher level, be sure to include full information saying who imposed the requirement and how the mandate was communicated. Provide a copy of the applicable documentation (letter, message, etc.).

(e) Do not say that your source is the "best qualified" to do the job. You must show that it is the ONLY source that can do the job. "Best qualified" infers that others can do the job, but someone has decided that one source is preferred. The competitive solicitation and evaluation process should decide who is best qualified to satisfy the requirement. If others are technically capable of performing but time constraints necessitate soliciting only one or a limited number of sources, fully explain how and why the time constraint must limit competition.

(f) Do not say your source is the "only known source" unless you fully describe the process you went through to make that determination

(including "sources sought" synopses in the Commerce Business Daily). If there are other sources you do not know about, a competitive solicitation may turn them up. You must clearly show that your source is the **ONLY** source.

(g) The rationale for the J&A cannot be based on the fact that a particular source can do the job for a lower price than anyone else. The purpose of competing a requirement is to obtain the best product at the lowest cost or best value (depending upon how the evaluation criteria is structured) -- in any case, competing between several available sources will generally result in the best deal for the government. If the primary justification for sole source is FAR 6.302-1(a)(2)(ii) or (iii), include an estimate of the cost that would be duplicated as well as the basis for the estimate.

(h) You may not cite expiring funds, lack of funds, or time waiting for funds as reasons for using other than full and open competition. This is **NOT** an acceptable justification, and the mere mention of it will raise suspicions about the real reason for limiting competition. If an activity has a known requirement, coordination should be initiated with the contracting officer as soon as the requirement is identified. There is much that can be done in the advance planning stage that can significantly reduce the amount of processing time once funds are received. In some cases, it may be possible to complete actions to the point of award. The key is to get the contracting office involved early in the process.

(i) Identify the constraints such as schedule requirements, unique features and mandatory requirements, or the existence of patent, proprietary data, copyright or other such limitations which restrict competition.

(j) If the requirement is for an interim contract (or contract extension) with the incumbent, discuss why it would be neither cost effective nor realistic to expect another contractor to perform during the brief interim period. Things such as the following may be relevant: start up costs; manning problems including recruitment and associated relocation fees; transfer and accountability of a large amount of GFP; variety and complexity of requirements; preparation of management plans. Give examples and discuss specifics including associated estimated dollar amounts (wherever possible) as well as the amount that would be a duplication of costs once the follow-on is awarded.

(k) If the requirement is for an interim contract (or contract extension) required due to receipt of a protest prior to or upon award of a follow-on service contract, you must include: the date award was scheduled or actually made; the date the protest was received; the name of the protestor; the basis for the protest; the likelihood of the protest being settled in favor of the government and why; whether consideration was given to requesting a protest override and why it was not determined to be an appropriate alternative; the date protest resolution is expected; and, the date the current contract expired or will expire.

(l) If the requirement is for an interim contract (or contract extension) citing any exception to competition, or any contract citing Exception 2 (Urgency), include a complete justification for the minimum quantity or period of performance. If the action is an interim requirement contingent upon some follow on action, include a discussion of the basis for

the milestones for that action. These milestones should be realistic, yet as "tight" and proactive as possible. It is not acceptable to "pad" milestones for unlikely contingencies or to provide extra time for the follow-on (i.e., must not reflect a "business as usual" attitude).

(m) Was the item or service previously acquired? If so, was it from the same contractor? If this is a continuation of a previous effort by the same contractor, discuss why no other sources of supply are available. Can alternate products or services be used and obtained competitively? If so, why is that alternative not being pursued?

(n) Can the item be subjected to redesign efforts such as Reverse Engineering or Value Engineering which would enhance its ability to be competed in the future? Can the contractor be persuaded to provide the specifications, drawings, etc., which will enable the government to compete the item in the future?

(o) Can individual components of the requirement be competitively acquired? If so, explain fully why this is not being done.

(p) Can individual components of the requirement be procured directly from subcontractors? If so, explain fully why this is not being done.

(4) Impact: Fully describe the detrimental effects to the mission of the requiring activity or to the government that would result if this J&A was not approved and, consequently, the product or service could not be provided. A general statement of mission failure is not sufficient. The statements must be able to pass the "So What?" test. Give specific examples of the nature and severity of the impact with dollar or other factors wherever possible.

(a) You may not cite conclusions (for example: "the government will be injured") without explaining the facts which form the basis of that conclusion. You must fully explain the reasons for the "injury" and why that "injury" cannot be tolerated.

(b) You should not say something like "any delay will be costly" without explaining how it will be costly and what the cost impact will be. Use "actuals" for dollars or other resource impacts whenever possible.

6. EFFORTS TO OBTAIN COMPETITION: Describe efforts made to ensure that offers are solicited from as many potential sources as is practicable. Also describe the extent of effective competition anticipated for this acquisition.

a. State when the requirement was synopsized (sources sought and/or regular) in the Commerce Business Daily and the number of responses received to the advertisement.

b. Use of Exception 2 (Urgency) requires soliciting as many sources as is practicable under the circumstances. State how many sources were solicited and how many offers were received.

c. If the J&A is for a contract modification, efforts to obtain competition on the original procurement should also be discussed.

d. Sometimes information in this paragraph and that in paragraph 8 (Market Survey) overlap. There is no need to restate the information -- just cross reference the paragraphs.

e. If paragraph 5 fully explains why competition was not feasible for the particular action, you should include something like: "Based on information in paragraph 5, above, competition for this action was not feasible."

7. ACTIONS TO INCREASE COMPETITION: Include a statement of the actions taken (or to be taken) to increase competition before any subsequent acquisition of the supplies or services is required. There may be instances where it is not possible to compete the current acquisition; explain how competition will be increased or enhanced for the required supplies or services (to include break out or other considerations). If the requirement is a repair part or a centrally managed item, address whether or not it has been screened under DFARS APPENDIX E. If screening has occurred, provide the Acquisition Method Code (AMC) and Acquisition Method Suffix Code (AMSC). Provide approximate date of technical data package (TDP) availability.

a. One example may be: "This is a one-time requirement and no future similar acquisitions are anticipated. However, if a similar requirement arises, every effort will be made to compete it to the maximum extent practicable."

b. Another instance might be expressed: "The requiring activity is currently preparing specifications that will be adequate for full and open competition on a follow-on requirement anticipated for execution during FYxx. A market research will be performed for the follow-on requirement to identify all potential sources."

c. If the current requirement is for an interim contract (or an extension of an existing contract), this paragraph could read something like: "Forty firms have requested a copy of the solicitation for the fully competitive follow-on requirement. To date, four offers have been received."

8. MARKET RESEARCH: Describe the extent of the market research (FAR 10.002) conducted to identify all qualified sources and the results thereof. Or, only if justified, reasons why one was not conducted. Attach a copy of the approval waiver if over \$10M; otherwise see subparagraph 8h, below.

a. Market research means "attempts to ascertain whether other qualified sources capable of satisfying the Government's requirements exist. This testing of the marketplace may range from written or telephone contacts with knowledgeable federal and non-federal experts regarding similar or duplicate requirements, and the results of any market test recently undertaken, to the more formal sources-sought announcement in pertinent publications (e.g., technical/scientific journals, or the Commerce Business Daily), or solicitations for information or planning purposes."

b. Market research should be accomplished in a timely manner early in the acquisition process (prior to preparation of a J&A or acquisition plan) and tailored as appropriate to the goods or services being acquired. Market research has traditionally been the responsibility of technical personnel. However, since some of the recommended techniques are more appropriately

accomplished by the contracting office, market research should be conducted as a joint coordinated effort between the requiring activity and the contracting office to maximize results. Prior to contacting any potential sources, the requiring activity must discuss the proposed market research plan with the contracting officer to avoid any possible unauthorized vendor contacts or inadvertent release of advance acquisition information.

c. The intent of market research is to create or increase competition by locating and ensuring that all interested and capable sources are given the opportunity to compete for the goods and services to satisfy our minimum requirements. Competition should help the government receive the best value for its money. The J&A must include a detailed description and results of the market research or a statement discussing why it was not conducted.

d. A "sources sought" synopsis is a valuable tool to determine whether sources other than the suggested sole source can satisfy the requirement. One advantage to this type of synopsis is that it can be issued as soon as the requirement becomes known. You do not have to wait until funds are provided or for the details of the procurement to be finalized. There is no set format for this type of synopsis as there is for a regular synopsis. You should include all known performance and/or technical information so contractors can determine whether they may be able to satisfy the requirement. The TRADOC Special Competition Advocate will be looking for "sources sought" efforts to be discussed in J&As.

e. Inadequate planning is an unacceptable justification for not conducting market research.

f. The inadequacy of technical data is also an unacceptable justification for not conducting market research. The market place can sometimes be a better judge of the adequacy or even the necessity of technical data.

g. It is unacceptable to justify a sole source on the fact that a technical activity found a desirable product during a market research (or an unofficial evaluation of available products) that has a lower price than others they reviewed. The process of finding the best product at the best cost must be left to the contracting officer.

h. The extent of research involved in market research efforts should be tailored commensurate with the requirements, dollar value, and complexity of each procurement. A list of some suggested market research methods is provided at Enclosure 3.

i. Waiver of the market research:

(1) It may be generally understood why there would be insufficient time to conduct comprehensive market research for those requirements justified under Exception 2 (Urgency). However, there should be time in most situations to use some of the suggested techniques in Enclosure 3. In those rare instances where the circumstances would preclude market research efforts of any kind, paragraph 5 rationale would normally make it obvious why it was not possible. Appropriate verbiage in those rare cases (and where the value of the J&A does not exceed \$50M) might be "Based on the information in paragraph 5, above, exigent circumstances precluded market research." If additional explanation is available/necessary, please

provide.

(2) It is anticipated that waivers for market research would be rare for requirements citing Exceptions 1 and 3-7.

(3) Approval of waiver:

(a) The signature of the installation/activity competition advocate on the J&A will signify approval of the waiver on requirements not exceeding \$500K.

(b) The signature of the approval authority on the J&A will signify approval of the waiver on requirements not exceeding \$50M.

(c) IAW AFARS 7.102, market research waivers on J&As over \$50M must be approved by the Head of the Contracting Activity (TRADOC Commanding General) prior to submission of the J&A (and Acquisition Plan, if applicable) for approval.

9. INTERESTED SOURCES: Include a listing of the sources that expressed written interest in the acquisition. If 10 U.S.C. 2304(c)(1) is the intended authority, explain why such other sources responding to the synopsis were rejected. (Note: A Sources Sought Synopsis should be issued as soon as the procurement package is received so contractors may respond while the J&A is being written , since the synopsis (sources sought and/or regular) and its results shall have occurred prior to processing the J&A in accordance with FAR 6.302-1(c)(2)). If applicable, clearly state "To date, no other sources have expressed an interest in writing." Also state that the notices required by FAR 5.201 shall be/have been published and any bids or proposals received shall be considered. If a CBD notice will not be published, state which exception in FAR 5.202 applies.

a. If paragraph 6 contains the publication date of the regular synopsis (as opposed to a sources sought synopsis), it is not necessary to make a specific statement in this paragraph that "notices required by FAR 5.201 have been published." However, if only a sources sought synopsis has been published, you must state that the notice shall be published.

b. For those requirements that must be advertised, at least a sources sought synopsis must have occurred prior to submission of the J&A for processing. Results of the synopsis must be included in the J&A. Issuing a sources sought synopsis does not relieve you of the requirement to officially synopsise the requirement. In any case, if additional responses are received after the J&A has been forwarded for approval that indicate other sources may be available, the contracting officer must submit updated information to the SCA. A memorandum may be used to forward the additional information (company name, date response was received, substance of the response, disposition or action taken). If circumstances preclude even a sources sought synopsis, prior approval to omit CBD results must be obtained from the SCA prior to submitting the J&A for approval.

(1) If responses were received, discuss the content of the response and how it was considered, as appropriate.

(a) If responses only amounted to requests for the solicitation and no additional information was provided, say something like: "ABC Corp. and XYZ Co. requested copies of the RFP but provided no information to determine

whether these firms can satisfy this requirement." These firms must be provided a copy of the RFP and their offers considered if submitted in an appropriate and timely manner. (Note: Neither CBD Note 22 nor FAR 15.402(h) negate the responsibility to provide a copy of the solicitation to potential competitors. It would be unreasonable to expect a contractor to submit a proposal without a copy of the solicitation which describes the required item/service.)

(b) If a response contained information sufficient to conduct a preliminary evaluation, say something like: "Preliminary technical information submitted by ABC Corp. in response to the CBD notice has been reviewed by the requiring activity who has advised that ABC does not appear to meet the requirements in the RFP." Or, perhaps: "... by the requiring activity who has advised that ABC Corp.'s product may be acceptable; however, final determination will be made after evaluation of ABC's formal proposal when submitted." In any case, a copy of the RFP must be provided to anyone responding to the CBD notice; if they submit a proposal, it must be considered.

c. For those urgent requirements not synopsized in the CBD, be sure to include the name of all offerors submitting a proposal. An offeror's address and amount of the offer are not required.

d. Tailor verbiage in this paragraph to satisfy the circumstances of the particular requirement. The following examples are not all inclusive:

(1) For other than Exception 2 (Urgency): "ABC Corp. is the only known source capable of providing the required services. To date, no written responses have been received to the CBD notice; however, all offers received shall be considered."

(2) For Exception 2 (Urgency): "ABC Corp. and XYZ Co. submitted proposals. Award was made to ABC Corp. This requirement was not synopsized in the CBD pursuant to the exception in FAR 5.202(a)(2)."

(3) If competition is limited due to time constraints: "ABC Corp. is the only known firm capable of providing the required level of support for this interim period at such short notice. This requirement was not synopsized in the CBD pursuant to the exception in FAR 5.202(a)(2)."

10. OTHER FACTORS: Discuss any other factors supporting the use of other than full and open competition, such as:

a. Procurement history. The following items of information are expected.

(1) Contract numbers and dates of the last several awards.

(2) Competitive status of these actions.

(3) Authority for less than full and open competition previously used.

(4) If a J&A was prepared to support the immediately prior buy, briefly describe the Actions to Increase Competition (paragraph 7) mentioned in that prior J&A, and explain the results thereof.

(5) If any prior award was accomplished by full and open competition, explain the changed circumstances in detail.

(6) Explain any unusual patterns which may be revealed by the history, e.g., several consecutive, urgent buys.

(7) If a J&A was prepared to support the immediately prior buy, briefly describe the circumstances justifying the last buy and whether there have been any significant changes.

b. Reasonable efforts to retrieve required information are expected. Resources include past contract files, and the Competition Management Office.

c. Acquisition Data Availability: Explain why technical data packages, specifications, engineering descriptions, statements of work or purchase descriptions suitable for full and open competition have not been developed or are not available. Describe actions taken or planned to remedy this situation.

NOTE: If not available, are any of these being developed? If not, why not? How much leadtime would be required to develop it? Has any cost-benefit analysis been conducted to determine whether it is advantageous to the government to buy or develop it? If not, what evidence is available to demonstrate why analysis is not needed? Some type of specification, work statement, or description must be prepared even if the procurement is sole source.

d. Unusal and Compelling Urgency: When FAR 6.302-2 is cited, provide data, estimated cost or other rationale as to the nature and extent of the injury to the government. If a requirement for first article testing is the principal reason for not awarding the contract on a full and open basis, clearly describe the reasons that first article testing is required on this procurement and why other means of assuring quality are not being used.

NOTE: Although the AFARS format instructions state that information concerning injury to the government should be shown in paragraph 10, it is more appropriate to include this information in the justification required by paragraph 5. There is no need to duplicate this information in paragraph 10, just say "See paragraph 5, above."

e. Subcontracting Competition: In single source situations, address efforts to be taken by the government to assure that the prime contractor obtains as much competition as possible in its subcontracting.

11. TECHNICAL CERTIFICATION: "I certify that the supporting data under my cognizance which are included in the J&A are accurate and complete to the best of my knowledge and belief."

NAME:

DATE:

TITLE:

SIGNATURE:

12. REQUIREMENTS CERTIFICATION: "I certify that the supporting data under my cognizance which are included in the J&A are accurate and complete to the best of my knowledge and belief."

NAME: _____ DATE: _____

TITLE: _____ SIGNATURE: _____

13. MANAGEMENT REVIEW/APPROVAL: "The requirement herein described is a valid requirement of the activity named in paragraph 3 of this J&A. The technical and requirements information contained in the J&A represent the minimum needs of the government. The only way to satisfy this requirement is by limiting competition as described herein."

NAME: _____ DATE: _____

TITLE: _____ SIGNATURE: _____

14. FAIR AND REASONABLE COST DETERMINATION: "I hereby determine that the anticipated cost for this contract action will be fair and reasonable." Or, for those J&As citing Exception 2 (Urgency), submitted after award: "... that the cost for this contract action was fair and reasonable." Provide the basis for this determination (e.g., describe techniques used or to be used to determine fair and reasonable price, such as cost analysis, price analysis, audit, should cost, independent government estimate, etc.).

NAME: _____ DATE: _____

TITLE: Contracting Officer SIGNATURE: _____

15. CONTRACTING OFFICER CERTIFICATION: "I certify that this J&A is accurate and complete to the best of my knowledge and belief."

NAME: _____ DATE: _____

TITLE: Contracting Officer SIGNATURE: _____

NOTES:

1. Begin signatures/certifications on a separate page in case changes have to be made to the J&A after it has been signed.

2. The Technical, Requirements, and Management personnel and the Contracting Officer should be the same as those whose names appear on the cover page (Justification Review Document).

a. If the same person happens to perform both the technical and the

requirement functions within the requiring activity, it is acceptable to combine these signatures into a "TECHNICAL/REQUIREMENTS CERTIFICATION" and to renumber subsequent paragraphs accordingly.

b. See paragraph 6 of the Introduction to this handbook for thresholds that determine signature authority for management level review and approval in paragraph 13, above.

3. The person who signs paragraphs 14 and 15, above shall be the contracting officer who will sign the contract resulting from this J&A. If another contracting officer subsequently signs the contract, the new contracting officer should countersign those paragraphs. The purpose of the countersignature is to ensure that the contracting officer signing the contract agrees with the basis for the noncompetitive action.

4. Enclosure 6 is a copy of the certification page that you may use and just "fill in the blanks" for other than "after-the-fact" J&As. Enclosure 7 is a copy of the certification page for "after-the-fact" J&As (para 14 is slightly different). If the J&A exceeds \$10,000,000 (and therefore must be approved by the TRADOC Chief of Staff or higher), ensure that all type styles in the J&A match.

a. Note that space has been left in paragraph 14 for you to include the basis for the fair and reasonable determination.

b. Remember to insert the appropriate page number at the bottom.

c. Before you make a copy of the blank form, be sure to block out "Enclosure 6" or "Enclosure 7" from the bottom of the page.

APPROVAL

Based on the foregoing justification, I hereby approve the procurement of (Note 2a) (short title of supplies and/or services being procured) on an13 other than full and open competition basis pursuant to the authority of 10 U.S.C. 2304(c)() (Note 2b), subject to the availability of funds, and provided the (Note 2c) (services and/or property) herein described (have/has) otherwise been authorized for acquisition.

DATE:

SIGNATURE:

NOTES:

1. Put the approval paragraph on a separate page.

2. What goes in the blanks?

a. The short title of the supplies and/or services being procured; should be similar to "Program/Equipment" on the Justification Review Document.

b. The appropriate exception to full and open competition goes into this space; it should agree with the Justification Review Document and paragraph 4 of the J&A.

c. Fill in either "property," "services," or "property and services."

3. Do not omit "subject to availability of funds." This statement is necessary as a protection for the approving official since he/she has no personal knowledge of the funding arrangements for the resultant contract.

4. Do not fill in any of the signature block information -- leave blank.

5. The contracting officer is the approval authority on J&As not exceeding \$500,000. The contracting officer's signature in block 15 of the J&A constitutes approval and, therefore, this approval paragraph would not be required.